ORAL DECISION

IN THE MATTER OF an application dated May 16, 2003 by SMT (Eastern) Limited d/b/a Acadian Lines for approval of changes to scheduled services for its inter-city public motor bus service

June 24, 2003

NEW BRUNSWICK

Board of Commissioners of Public Utilities

New Brunswick Board of Commissioners of Public Utilities

Hearing

In the Matter of an application dated May 16, 2003 by SMT (Eastern) Limited d/b/a Acadian Lines for approval of changes to scheduled services for its inter-city public motor bus service

Board Premises, Saint John, N.B.

June 24, 2003, 10:00 a.m.

CHAIRMAN: David C. Nicholson

COMMISSIONERS: J. Cowan-McGuigan
J. Dumont
E. LeBreton
D. Nelson
K. Sollows

BOARD SECRETARY: Lorraine Légère

BOARD STAFF: Gay Drescher

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CHAIRMAN: The Board's taken the necessary time to make a decision and we approve the application as amended by the withdrawing of the fuel surcharge except when it comes to the flag stops. We note that your counsel has indicated that you'll be here within a month or so in reference to a general rate application so we're suggesting to you that you add flag stops to that again. Number one, it seems a bit unclear, but in looking at the evidence that you did file in addition to the four flag stops of Cape

Tormentine, Allardville, Pennfield, Salisbury, there are at least three others that you are thinking about adding. One is in Kouchibouguac, the other one is Blacks Harbour and there's a third one I forget what that is but it doesn't matter. So it's a little more important from our point of view that we basically think that 24 hours notice is, may be excessive and we suggest that you go back and take a look at it and see what practical solutions there is to this. We want the company to be able to initiate a notice to the drivers certainly, but we think that 24 hours notice may be excessive and not giving the travelling public the best benefit of the situation. So just add that to your next application and come up with the best suggestions you can that gives you the notice and allows the public a little more leeway. So that's the Board's decision and thank you very much.

MR. LAWSON: Mr. Chairman, if I could just make the Board take notice for a moment. On the stop issue, the flag stop issue, there is a bit of a complication with both the change and the 24 hours and the waiting until the end of July or whenever the application will be filed for the company in that they were intending as part of the cost cutting measure to print schedules for their entire operation. So one schedule for Nova Scotia and New Brunswick and once they do these those schedules will be in place for, the printed version would be in place for a very long time so if it is at all possible for the Board, I understand what the Board's decision is, but if the Board could bring itself to reflect on that it would certainly be far more cumbersome ...

CHAIRMAN: Sorry, Mr. Lawson, you can't appeal our, and you know that. now look, in fairness when Mr. Melanson and I spoke initially we had a similar

conversation and I lined that up at the very commencement of this hearing, but what do I get? I get an application which says 24 hours notice and I don't want to be making decisions on a reduction and some of my Commissioners, we all do, believe that would be making a decision that gets down to micro-managing the company because that's illegal. But we do believe from the consumers' point of view that a blanket 24 hour notice is not appropriate. It's not necessary in all cases. It may be in some but not all. So I don't want to make it terribly complex, but you folks yourself have said that 85 percent make a phone call before they ever get on the bus whether it's to the SMT number or not. I think you can come up with an ingenious, very short one sentence thing to go into your schedule as to the phone the 1-800 number to find out about timings on pick-ups at these stops.

MR. LAWSON: I guess to put it on the record then and I think I'd expressed this to you before in our meeting preceding the application. It is my view that the 24 hour notice requirement is not in fact required for Board approval in any event because it's not part of the discontinuance of service because we continually provide service. So we will be reviewing that issue as well.

CHAIRMAN: All right, you can go ahead. I think that the Board has general supervision of the regulated utility, which is SMT in this case, and I think this kind of thing would probably fall under that. You and I have had this discussion before. I don't think we'll be going to the Appeals Court on it, but there you have it.

MR. LAWSON: Just so I might, Mr. Chairman. You had indeed expressed your view with respect to the 24 hour notice to the company and to myself,

but that notwithstanding the company has since sought and obtained approval in Nova Scotia for the 24 hour system and that's the reason why the application was 24 hours here so that there was a consistency throughout the service. The Board in Nova Scotia has granted it so that's part of the complication with the scheduling. It is a 24 hour system in Nova Scotia. It will not be here as it's regulated given the Board's decision.

CHAIRMAN: I don't think the attitude of this panel that a blanket 24 hour approval is going to be approved, period. So I'm trying to give you and the company the opportunity to come up with what would be the best shorter notice period or arrangement that I could possibly can rather than dictating it, allowing you to have the compromise. Thank you very much.

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to the best of my ability.

Lorraine Légère
Board Secretary